

ESTTA Tracking number: **ESTTA728935**Filing date: **02/23/2016**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Geigtech East Bay LLC		
Entity	Limited liability company	Citizenship	South Carolina
Address	142 East Bay Street Charleston, SC 29401 UNITED STATES		

Attorney information	Margaret L. Mettler Foley & Lardner LLP 500 Woodward Avenue, Suite 2700 Detroit, MI 48226-3489 UNITED STATES ipdocketing@foley.com, RMcKenna@foley.com, MMettler@foley.com, JRodriguez@foley.com, LLucas@foley.com, BKuhn@foley.com
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Registration Subject to Cancellation

Registration No	3991898	Registration date	07/12/2011
International Registration No.	NONE	International Registration Date	NONE
Registrant	Gerhard Geiger GmbH & Co. SchleifmÃ¼hle 6 GERMANY		

Goods/Services Subject to Cancellation

Class 006. First Use: 0 First Use In Commerce: 0

All goods and services in the class are cancelled, namely: Base metals and their alloys; goods made of metal, included in this class, namely, Metal components for metal protective and security window shutters, namely, slats, shutterboxes, side frames, end caps, crank handles, pull straps, side tracks, ball bearings and installation hardware, namely, rollers, rails, cables, carriers, pins, locks, clips, brackets and screws, metal pulleys for window shutters, window blinds, awnings, marquees, and window screens; metal rollers for window shutters, window blinds, awnings, marquees, and window screens; manually operated cranks made of metal, included in this class, namely, window cranks; small ironware, namely, metal locks for window shutters, window blinds, awnings, marquees, and window screens, metal couplings for use with window blinds, awnings, marquees, and window screens, metal spindle locks, metal wall mounts, clips, and mounting plates for window shutters, window blinds, awnings, marquees, window screens, and parts, namely, engines, motors, motor bearings, and solar and wind sensors, metal tubes, Metal adapters for use with hydraulic and pneumatic systems; manually operated cranks made of metal for shutters, awnings, blinds

Class 007. First Use: 0 First Use In Commerce: 0

All goods and services in the class are cancelled, namely: Electric motors, except for land vehicles; electric drive mechanisms for shutters, awnings, blinds, installations for providing shade, and parts thereof; machine parts, namely, bearings, bearing housings, engine bearings, roller bearings, rollers coated with synthetic material, Tube motors for adjusting window blinds, Gearboxes other than for

land vehicles,Motors, gears and drives for orientating window shutters, window blinds, awnings, mar- quees, and window screens; hinged cranks as parts of machinery

Class 009. First Use: 0 First Use In Commerce: 0

All goods and services in the class are cancelled, namely: Apparatus and instruments for conducting, switching, converting, storing, regulating and controlling electricity, namely, Electronic servo motor controllers, connector cables, electrical adapter cables, radio transmitters, Remote control transmitter for radio-controlled devices,timers; Programmable stationary and mobile remote control devices for shutters,and awnings; electric or electronic sensors for sensing solar radiation and wind intensity and direction

Grounds for Cancellation

Abandonment

Trademark Act section 14

Attachments

2016-02-23 - Petition to Cancel GEIGER & Design.PDF(1199729 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address
record by First Class Mail on this date.

Signature

/Margaret L. Mettler/

Name

Margaret L. Mettler

Date

02/23/2016

As grounds for the Petition to Cancel, Petitioner alleges the following:

BACKGROUND FACTS

1. Since at least as early as 2015, Petitioner has been engaged in the business of manufacturing and selling manual and electronic window shades.
2. On August 3, 2015, Petitioner filed a use-based application with the USPTO to register the mark J GEIGER in connection with shades in Class 20 and installation, maintenance and repair of window shade systems and automation equipment for window shade systems in Class 37 ("Petitioner's Goods and Services"). The application was assigned U.S. Serial Number 86/713,195. Attached as **Exhibit A** is a printout of the TESS record from the USPTO database showing the particulars of Petitioner's J GEIGER application.
3. Since at least as early as March 15, 2015, Petitioner has continuously used the J GEIGER trademark in connection with Petitioner's Goods and Services.
4. Petitioner's J GEIGER mark is of significant value to Petitioner as an identification of source in connection with the sale and offering of Petitioner's Goods and Services.
5. On November 18, 2015, the USPTO Examining Attorney issued an Office Action denying registration of Petitioner's Application based on an alleged likelihood of confusion with two registrations owned by Respondent: (1) U.S. Registration No. 3,991,898 for the mark GEIGER and Design (the "Cited Registration") and (2) U.S. Registration No. 1,717,540 for the mark GEIGER ANTRIEBSTECHNIK and Design. Since the Office Action issued, the latter registration was cancelled due to Respondent's failure to file an acceptable declaration under Section 8.

6. According to the USPTO's online records, the application for the Cited Registration was filed under the Madrid Protocol and Section 66(a) of the Trademark Act designating the United States on July 23, 2010. The Cited Registration was registered on July 12, 2011 for the following goods:

Class 6: Base metals and their alloys; goods made of metal, included in this class, namely, Metal components for metal protective and security window shutters, namely, slats, shutterboxes, side frames, end caps, crank handles, pull straps, side tracks, ball bearings and installation hardware, namely, rollers, rails, cables, carriers, pins, locks, clips, brackets and screws, metal pulleys for window shutters, window blinds, awnings, marquees, and window screens, metal rollers for window shutters, window blinds, awnings, marquees, and window screens; manually operated cranks made of metal, included in this class, namely, window cranks; small ironware, namely, metal locks for window shutters, window blinds, awnings, marquees, and window screens, metal couplings for use with window blinds, awnings, marquees, and window screens, metal spindle locks, metal wall mounts, clips, and mounting plates for window shutters, window blinds, awnings, marquees, window screens, and parts, namely, engines, motors, motor bearings, and solar and wind sensors, metal tubes, Metal adapters for use with hydraulic and pneumatic systems; manually operated cranks made of metal for shutters, awnings, blinds

Class 7: Electric motors, except for land vehicles; electric drive mechanisms for shutters, awnings, blinds, installations for providing shade, and parts thereof; machine parts, namely, bearings, bearing housings, engine bearings, roller bearings, rollers coated with synthetic material, Tube motors for adjusting window blinds, Gearboxes other than for land vehicles, Motors, gears and drives for orientating window shutters, window blinds, awnings, marquees, and window screens; hinged cranks as parts of machinery

Class 9: Apparatus and instruments for conducting, switching, converting, storing, regulating and controlling electricity, namely, Electronic servo motor controllers, connector cables, electrical adapter cables, radio transmitters, Remote control transmitter for radio-controlled devices, timers; Programmable stationary and mobile remote control devices for shutters, and awnings; electric or electronic sensors for sensing solar radiation and wind intensity and direction

("Respondent's Goods").

7. According to the USPTO's online records, use in the U.S. has not yet been claimed for any of the goods listed in the Cited Registration.

COUNT ONE: ABANDONMENT

8. Upon information and belief, Respondent had not used the GEIGER and Design mark in U.S. commerce on or in connection with Respondent's Goods at the time the application matured to registration as the Cited Registration.

9. Upon information and belief, for a period of more than three consecutive years immediately after registration of the Cited Registration, Respondent did not make bona fide use of the GEIGER and Design mark in U.S. commerce in connection with Respondent's Goods, and had no intent to commence use in U.S. commerce, thereby resulting in abandonment of the mark.

10. Upon information and belief, for a period of more than three consecutive years after registration of the Cited Registration and prior to the date of this Petition, Respondent has not make bona fide use of the GEIGER and Design mark in U.S. commerce in connection with Respondent's Goods, thereby resulting in abandonment of the mark.

11. Upon information and belief, Respondent has not and is not currently using the GEIGER and Design mark in U.S. commerce on or in connection with Respondent's Goods.

12. Continued registration of the GEIGER and Design mark will result in damage to Petitioner because it will prevent Petitioner from obtaining federal registration of the mark J GEIGER.

13. The Cited Registration should be cancelled under Section 14 of Trademark Act, 15 U.S.C. § 1064, because Respondent has abandoned the GEIGER and Design mark.

WHEREFORE PETITIONER PRAYS, by and through its attorneys, that this Petition be sustained and that Registration No. 3,991,898 for the mark GEIGER and Design be cancelled.

Payment in the amount of \$900.00 is tendered herewith via a credit card charge to cover the statutory filing fee. 37 C.F.R. § 2.6(a)(16). If any additional fees should be required, please charge same to Deposit Account No. 19-0741.

Date: February 23, 2016

FOLEY & LARDNER LLP



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EXHIBIT A



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J GEIGER

Word Mark J GEIGER**Goods and Services** IC 020. US 002 013 022 025 032 050. G & S: Shades. FIRST USE: 20150315. FIRST USE IN COMMERCE: 20150315

IC 037. US 100 103 106. G & S: Installation, maintenance and repair of window shade systems and automation equipment for window shade systems. FIRST USE: 20150315. FIRST USE IN COMMERCE: 20150315

Standard Characters Claimed**Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 86713195**Filing Date** August 3, 2015**Current Basis** 1A**Original Filing Basis** 1A**Owner** (APPLICANT) Geigtech East Bay LLC LIMITED LIABILITY COMPANY SOUTH CAROLINA 142 East Bay Street Charleston SOUTH CAROLINA 29401**Attorney of Record** Richard J. McKenna**Type of Mark** TRADEMARK. SERVICE MARK**Register** PRINCIPAL**Live/Dead Indicator** LIVE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Reg. No.: 3,991,898

Trademark:
Registered:

GEIGER and Design () **GEIGER**,
July 12, 2011

GEIGTECH EAST BAY LLC

Petitioner,

v.

GERHARD GEIGER GMBH & CO.

Respondent.

Cancellation No. _____

CERTIFICATE OF SERVICE

I, Margaret Mettler, hereby certify that a copy of Petitioner's PETITION TO CANCEL was deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to:

John Alunit
Alunit IP
135 South Jackson Street, Suite 200
Glendale, California 91205

Dated: February 23, 2016

Signed: 